

Introduced by Senator Torlakson

May 16, 2001

Senate Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 16 to Article XI thereof, by amending Section 4 of Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by adding Section 3 to Article XIX A thereof, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 5, as introduced, Torlakson. Local government: special taxes: transportation.

The California Constitution conditions the imposition of a special tax by a city, county, or special district upon the approval of $\frac{2}{3}$ of the voters of the city, county, or special district voting on that tax, and prohibits these entities from imposing an ad valorem tax on real property or a transactions or sales tax on the sale of real property.

This measure would authorize a local government, as defined, with the approval of a majority of its voters voting on the proposition, to impose a special tax, that it is otherwise authorized to impose, if the tax is imposed exclusively to fund transportation projects and services.

The Sales and Use tax Law provides for the allocation of the revenues derived from the taxes imposed under that law for various specific purposes, including transportation purposes, with the balance being allocated to the General Fund. Existing law requires the State Board of Equalization, in consultation with the Department of Finance, on a quarterly basis, to estimate the amount of sales and use tax revenue that is attributable to revenue collected for the sale, storage, use, or other

consumption in this state of motor vehicle fuel, and to inform the Controller, in writing, of the amount estimated. Existing law requires the Controller to transfer that estimated amount from the General Fund to the Transportation Investment Fund in the State Treasury.

This measure would establish the Transportation Investment Fund in the State Treasury, and would require that moneys be deposited in that fund, and be allocated from that fund, in the manner prescribed by statute on January 1, 2002.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2001–02 Regular
3 Session commencing on the fourth day of December 2000,
4 two-thirds of the membership of each house concurring, hereby
5 proposes to the people of the State of California that the
6 Constitution of the State be amended as follows:

7 First—That Section 16 is added to Article XI to read:

8 SEC. 16. (a) A local government may, with the approval of
9 a majority of its voters voting on the proposition, impose any
10 special tax, that it is otherwise authorized by law to impose, if that
11 tax is imposed exclusively for the purpose of funding
12 transportation projects and services.

13 (b) For purposes of this section:

14 (1) “Local government” means a local government as defined
15 by subdivision (b) of Section 1 of Article XIII C.

16 (2) “Special tax” does not include an ad valorem tax on real
17 property or a transactions tax or sales tax on the sale of real
18 property.

19 (3) The funding of transportation projects includes the
20 servicing of indebtedness issued for the purpose of funding those
21 transportation projects.

22 Second—That Section 4 of Article XIII A is amended to read:

23 Section 4. ~~Cities, Counties and special districts, Except as~~
24 *provided by Section 16 of Article XI, a city, county, or special*
25 *district, by a two-thirds vote of the qualified electors of such*
26 ~~district its voters voting on the proposition, may impose special~~
27 ~~taxes on such district a special tax within that city, county, or~~
28 ~~special district, except an ad valorem taxes tax on real property or~~
29 ~~a transaction transactions tax or sales tax on the sale of real~~

1 property within ~~such City, County~~ *that city, county*, or special
2 district.

3 Third—That Section 2 of Article XIII C is amended to read:

4 SEC. 2. ~~Local Government Tax Limitation.~~ Notwithstanding
5 any other provision of this Constitution:

6 (a) ~~All taxes.~~ Any tax imposed by any local government ~~shall be~~
7 ~~deemed to be~~ *is* either a general ~~taxes~~ *tax* or a special ~~taxes~~ *tax*.
8 ~~Special—A special purpose districts district or agencies agency,~~
9 including a school ~~districts,~~ *shall have district, has* no power
10 authority to levy a general ~~taxes~~ *tax*.

11 (b) No local government may impose, extend, or increase any
12 general tax unless and until that tax is submitted to the electorate
13 and approved by a majority vote. A general tax ~~shall is not be~~
14 deemed to have been increased if it is imposed at a rate not higher
15 than the maximum rate so approved. The election required by this
16 subdivision shall be consolidated with a regularly scheduled
17 general election for members of the governing body of the local
18 government, except in cases of emergency declared by a
19 unanimous vote of the governing body.

20 (c) Any general tax imposed, extended, or increased, without
21 voter approval, by any local government on or after January 1,
22 1995, and prior to the effective date of this article, ~~shall may~~
23 continue to be imposed only if *that general tax is* approved by a
24 majority vote of the voters voting in an election on the issue of the
25 imposition, which election shall be held ~~within two years of the~~
26 ~~effective date of this article~~ *no later than November 6, 1996*, and
27 in compliance with subdivision (b).

28 (d) ~~No—Except as provided by Section 16 of Article XI,~~ a local
29 government may *not* impose, extend, or increase any special tax
30 unless and until that tax is submitted to the electorate and approved
31 by a two-thirds vote. A special tax ~~shall is not be~~ deemed to have
32 been increased if it is imposed at a rate not higher than the
33 maximum rate so approved.

34 Fourth—That Section 3 of Article XIII D is amended to read:

35 SEC. 3. ~~Property Taxes, Assessments, Fees and Charges~~
36 ~~Limited.~~ (a) No agency may assess a tax, assessment, fee, or
37 charge ~~shall be assessed by any agency~~ upon any parcel of property
38 or upon any person as an incident of property ownership except:

39 (1) The ad valorem property tax imposed pursuant to Article
40 XIII and Article XIII A.

1 (2) Any special tax receiving a two-thirds vote pursuant to
2 Section 4 of Article XIII A, *or, as applicable, a majority vote*
3 *pursuant to Section 16 of Article XI.*

4 (3) Assessments as provided by this article.

5 (4) Fees or charges for property related services as provided by
6 this article.

7 (b) For purposes of this article, fees for the provision of
8 electrical or gas service ~~shall~~ *are* not ~~be~~ deemed charges or fees
9 imposed as an incident of property ownership.

10 Fifth—That Section 3 is added to Article XIX A to read:

11 SEC. 3. The Transportation Investment Fund is established
12 in the State Treasury. Moneys shall be deposited into that fund, and
13 shall be allocated from that fund, in the manner prescribed therefor
14 by statute on January 1, 2002.

